

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1906 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? -
2. To be referred to the Reporter or not? -
3. Whether Their Lordships wish to see the fair copy of the judgement? -
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? -
5. Whether it is to be circulated to the Civil Judge?

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K.K.BODIWALA

Versus

STATE OF GUJARAT

Appearance:

MR SM MAZGAONKAR for Petitioners

MR CC BHALJA, A.G.P.for Respondents.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 24/06/98

ORAL JUDGEMENT

The petitioners were working as Analytical Chemists in the Petrography and Mineral Chemistry Laboratory, Ahmedabad. By means of this petition, the petitioners have sought for amendment in the Gujarat Civil Services (R.O.P.) Rules, 1975, so far as it relates to the pay scale of the post of Analytical Chemist working in the Directorate of Geology and Mining, by sanctioning for the said post a pay scale equivalent to

that sanctioned for the post of Assistant Geologist in the pay scale of Rs. 700-1300. The petitioners have further prayed that Government Resolution, Finance Department, No.PCR/7678/82/M dated 24-10-1978 relating to disparity in pay scale of Assistant Geologist and Analytical Chemist be quashed and for a direction to the respondents to grant pay scale of Rs.700-1300 to the petitioner w.e.f. 1-1-73 and to pay difference of payment arising therefrom.

2. Heard the learned Counsel for the parties and perused the papers.

3. The submissions of learned Counsel for the petitioners is that the Assistant Geologists and Analytical Chemists were given the same pay scale by Sarla Pay Commission. The Desai Pay Commission Report in the year 1975 giving discriminatory pay scale of Rs. 700-1300. While for the Analytical Chemists Desai Pay Commission recommended pay scale of Rs. 650-1200. But the Government has placed both the posts of Assistant geologist and Analytical Chemist on the same pay scale by G.C.S. (R.O.P.) Rules, 1975. The Desai Pay Commissioner recommended higher grade to the Assistant Geologist of Rs. 700-1300 though Justice Ahmadi Pay Commission Report gave the same pay scale to both the posts of Rs. 1470-2750. But the Shah Pay Commission again discriminated the pay scale and given higher grade to the Assistant Geologists of Rs. 2200-4000. While the Analytical Chemists were recommended pay scale of Rs.2000-3500. Thus, the petitioners being Analytical Chemists have not been given pay scale which has been sanctioned to the Assistant Geologists.

4. A writ petition being Special Civil Application No.1046 of 1980 filed by the Senior Geologists in this Court which was decided on 29/30-7-1980, whereby the Government Resolution dated 24-10-1978 was set aside regarding the part of the revised pay scale of the Geologists to Rs. 1100-1600 and as such all the Assistant Directors, Geologists and Chemists were placed at par so far as pay scale is concerned. 3rd Pay Commission Report was submitted in the year 1985 which elaborately considered all the various aspects regarding the Assistant Directors, Geologists and Chemists and recommended the grade of Rs. 1750-3110 to the Assistant Director, Geologist and Chemist and later on Shah Pay Commission Report was submitted in the year 1987 which also accepted pay-scale given to these persons at par. By the Government Resolution dated 9-9-1988 the Geologist have been given higher pay scale of Rs. 3000-4500. The

petitioner are claiming the same pay scale on the basis of Shah Pay Commission Report. Learned Counsel for the petitioner also placed the relevant portion of the Shah Pay Commission Report before this Court. Learned Counsel for the State Government submitted that this is a matter which cannot be decided by this Court. The petitioner should have made representation before the appropriate authority placing their grievances. No finding can be recorded at this stage that the Government has committed any mistake in awarding higher grade to the Geologists. I have thoroughly considered the submissions made on behalf of the parties. In the facts and circumstances, it is difficult to record any finding that the Government has committed any error in absence of other materials which might have been considered by the Government at the relevant time.

5. The petitioners are at liberty file their representation before the authority concerned/State Government and State Government/authority concerned will consider the grievances of the petitioners with any other materials which might have been considered at the earlier occasion and decide the claim of the petitioners in accordance with law.. In case, such representation is filed by the petitioners along with a certified copy of this order, the State Government/appropriate authority is directed to decide the same within a period of three months from the date of receipt of the representation along with the certified copy of this order.

6. With the above directions, this petition is disposed of. Rule is discharged accordingly, with no order as to costs.

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